

For Office Use Only

Date: _____

Amount: _____

Texas Board of Nursing
333 Guadalupe, Ste 3-460, Austin, TX 78701
Phone: 512-305-7400

Audit #: _____

FBI HX: YES NO

PETITION FOR DECLARATORY ORDER

Complete this application in its entirety. Failure to submit a complete application, fee, personal statement, court documents and L1-ID Fingerprint scan or FBI fingerprint card, will delay the approval of your application. Your application will not be reviewed until **all** requirements have been met and the FBI background check has been completed and processed. Applications are processed in the order that they are received. Please type or print in ink. (Rev 12/2009)

Last Name: _____ First Name: _____ Middle Name: _____

Previous Names: _____

Phone Number: (____) _____ Social Security # _____ Date of Birth ____/____/____

Address: _____ Apt. No. _____

City: _____ State: _____ ZIP Code: _____ Email Address _____

☐ **Yes** ☐ **No** (1.) Are you enrolled, planning to enroll, or have you graduated from a nursing program?

Name of Nursing Program: _____

Location: _____

City

State

Type of Nursing Program: (circle one) LVN RN

Date of Enrollment: _____ **Date of Graduation:** _____

☐ **Yes** ☐ **No** (2.) For any criminal offense, including those pending appeal, have you:

- A. been convicted of a misdemeanor?
- B. been convicted of a felony?
- C. pled nolo contendere, no contest, or guilty?
- D. received deferred adjudication?
- E. been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?
- F. been sentenced to serve jail or prison time? court-ordered confinement?
- G. been granted pre-trial diversion?
- H. been arrested or have any pending criminal charges?
- I. been cited or charged with any violation of the law?
- J. been subject of a court-martial; Article 15 violation; or received any form of military judgment/punishment/action?

(You may only exclude Class C misdemeanor traffic violations.)

NOTE: Expunged and Sealed Offenses: While expunged or sealed offenses, arrests, tickets, or citations need not be disclosed, it is your responsibility to ensure the offense, arrest, ticket or citation has, in fact, been expunged or sealed. It is recommended that you submit a copy of the Court Order expunging or sealing the record in question to our office with your application. Failure to reveal an offense, arrest, ticket, or citation that is not in fact expunged or sealed, will at a minimum, subject your license to a disciplinary fine. Non-disclosure of relevant offenses raises questions related to truthfulness and character.

NOTE: Orders of Non-Disclosure: Pursuant to Tex. Gov't Code § 552.142(b), if you have criminal matters that are the subject of an order of non-disclosure you are not required to reveal those criminal matters on this form. However, a criminal matter that is the subject of an order of non-disclosure may become a character and fitness issue. Pursuant to other sections of the Gov't Code chapter 411, the Texas Nursing Board is entitled to access criminal history record information that is the subject of an order of non-disclosure. If the Board discovers a criminal matter that is the subject of an order of non-disclosure, even if you properly did not reveal that matter, the Board may require you to provide information about any conduct that raises issues of character.

Applicant's Signature: _____

Date: ____/____/____

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Applicant's Name (PRINT): _____ Social Security # _____

☐ Yes ☐ No (3.) Are you currently the target or subject of a grand jury or governmental agency investigation?

☐ Yes ☐ No (4.) Has any licensing authority refused to issue you a license or ever revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a license, certificate or multi-state privilege held by you now or previously, or ever fined, censured, reprimanded or otherwise disciplined you?

☐ Yes ☐ No (5.) *Within the past five (5) years have you been addicted to and/or treated for the use of alcohol or any other drug?

☐ Yes ☐ No (6.) *Within the past five (5) years have you been diagnosed with, treated, or hospitalized for schizophrenia and/or psychotic disorders, bipolar disorder, paranoid personality disorder, antisocial personality disorder, or borderline personality disorder?*

If "YES" indicate the condition: ☐ schizophrenia and/or psychotic disorders, ☐ bipolar disorder,
☐ paranoid personality disorder, ☐ antisocial personality disorder, ☐ borderline personality disorder

*Pursuant to Occupations Code §301.207, information regarding a person's diagnosis or treatment for a physical condition, mental condition, or chemical dependency is confidential to the same extent that information collected as part of an investigation is confidential under the Occupations Code §301.466. You may indicate "NO" if you have completed and/ or are in compliance with Texas Peer Assistance Program for Nurses (TPAPN) for substance abuse or mental illness.

***IF YOU ANSWER "YES" TO ANY QUESTION #2 - #6, YOU MUST PROVIDE A SIGNED AND DATED LETTER DESCRIBING THE INCIDENCE(S) THAT YOU ARE REPORTING TO THE BOARD, AS WELL AS SUPPORTING DOCUMENTATION. REFER TO THE INSTRUCTIONS PAGE FOR MORE INFORMATION.

Attestation

I, the Petitioner referenced in this application, acknowledge this document is a legal document and I attest that the statements herein contained are true in every respect. I understand that no one else may submit this form on my behalf and that I am accountable and responsible for the accuracy of any answer or statement on this form.

Further, I understand that it is a violation of the 22 TAC § 217.12 (6)(I) and the Penal Code, sec 37.10, to submit a false statement to a government agency; and

I consent to release of confidential information to the Texas Board of Nursing and further authorize the Board to use and to release said information as needed for the evaluation and disposition of my application.

I understand that if I have any questions regarding this affidavit I should contact an attorney or the appropriate professional health provider.

I will immediately notify the Board if at any time after signing this affidavit I no longer meet the eligibility requirements.

Applicant's Signature _____

Date: _____/_____/_____

**Petition of Declaratory Order Instructions
to take the NCLEX examination for licensure as an RN or LVN.**

A petition for Declaratory Order is a formal disclosure to the Board of an outstanding eligibility issue that may prevent an applicant in taking the NCLEX examination upon completion of a nursing program. The Declaratory Order process permits the Board to make decisions regarding a petitioner's eligibility for licensure prior to entering or completing a nursing program. Complete and return the petition with the following:

1. Attach a \$39.00 Cashier's Check, Personal Check, or Money Order made payable to the Texas Board of Nursing. **ALL FEES ARE NON-REFUNDABLE.** The Texas Board of Nursing - Operations Department will initially review the completed application within 45 days. The Operations Department has limited delegated parameters to approve petitioners in the declaratory process. If the issue is more complex and outside the delegated parameters of the Operations Department, the applicant will be billed an additional \$150 review fee. Once we receive this fee, your file will be transferred to the Enforcement Department for review. If a Declaratory Order petition is transferred to the Enforcement Department, the Operations staff will not be able to provide updates on the file. Applicants will need to allow a minimum of four (4) months before contacting the Enforcement Department at (512) 305-6838 with any inquiries. **Please note: The fee and petition application expire after one (1) year. If petition packet is not completed within one (1) year, then all fees and forms must be re-submitted.**
2. **The BON requires a criminal background check.** Ten working days after submitting this application and fee, you will need to contact L1-Identity Solution (www.l1id.com) and arrange to have your fingerprints scanned. L1 Identity Solutions will complete an electronic submission to the Texas Department of Public Safety for processing and the results are submitted directly to the BON. If you reside outside the State of Texas and are unable to arrange to have the electronic submission completed by L1 Identity Solutions, you must contact the BON and request an FBI fingerprint card which must be completed by the applicant and mailed back to the BON. List your name exactly as it appears on your Picture ID or Driver's license.
3. Provide a signed and dated statement (letter) describing the incident(s) that you are reporting to the Texas Board of Nursing.
4. Provide court documents that show the disposition of the case being reported. You must contact the court whereby the incident occurred to request a certified copy. If the record does not exist, you must obtain a statement from that court that the document has been destroyed or could not be located. See question number two on the following page for complete requirements.
5. All documentation described in these instructions must be submitted with your petition. Decisions regarding eligibility will be based upon the documents submitted. Falsification or omission of materials related to this petition will affect your eligibility and authorization to take the NCLEX® Examination. **Additional documentation may be requested.**
6. Eligibility will **not** be considered until your petition, the required fee, and **all** required documentation has been received and reviewed.
7. Statutes and Rules governing this petition may be found in the Texas Occupations Code §§ 301.257, 301.452-301.454 (Nursing Practice Act), and in the Board Rules and Regulations relating to Nurse Education, Licensure and Practice, 22 TAC §§ 213.27-30 and §§ 217.11-12. These statutes and rules can be located on the BON's web site www.bon.state.tx.us.

Time Frames: Once all the required information is received by the Operations staff, we have up to 45 days to respond. If the file has to be transferred to our Enforcement Department, you will receive a letter requesting a \$150 review fee. Once the \$150 fee is received, your file will be transferred to the Enforcement Department. If the file is transferred to the Enforcement Department, the eligibility determination may take a minimum of 4 months but could be longer depending on the issue and volume of applications.

Incomplete petitions **will not** be reviewed. To determine your eligibility, you must submit the following information that is relevant to your circumstance.

DISCLOSURE OF CRIMINAL HISTORY OR DISCIPLINARY ACTIONS

If you answered yes to questions 2-6, you must provide the Board with the following information:

QUESTION #2. The Board has determined that criminal behavior is highly relevant to an individual's fitness to practice nursing. Therefore, all criminal convictions or deferred orders, prosecution, or adjudication (a determination by a court that is withheld or delayed for a specific time period) must be reported to the Board. This includes offenses under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements of criminal conduct. SUBMIT a personal letter of explanation describing each incident, the behavior that led up to the criminal order and your conduct since the order, and any rehabilitative efforts that have been performed since the order. In addition, SUBMIT the following documentation for all felonies and for all misdemeanors:

Certified copies of:

1. charges (indictment, information, or complaint);
2. disposition of charges (Judgment, Order of Probation, Sentence, and/or Deferred orders); and
3. evidence that the conditions of the court have been met.

(To obtain this documentation, contact the county clerk in the jurisdiction where the order was issued for misdemeanors; district court clerk for felonies.)

You may answer "NO" to the question of prior convictions only if you: (a) received a pardon; or (b) were adjudicated as a minor without a finding of "delinquent conduct". If you were ever required to register as a sex offender, you must answer "YES".

If you have questions regarding the outcome of any criminal matter, consult your attorney.

QUESTION #3. The Nursing Practice Act provides that a person's conduct in violation of the Nursing Practice Act or rules of the board may be considered as a factor in its deliberations regarding fitness to practice nursing. Therefore, if a licensee or applicant is the subject of a grand jury or governmental agency investigation, the information regarding conduct or behavior giving rise to the investigation may be relevant in determining a violation of the Nurse Practice Act or lead to the admissibility of relevant evidence of such violation. If you are the subject of a grand jury or governmental agency investigation, please SUBMIT the name and address of the investigating entity and an explanation as to the basis of the investigation.

QUESTION #4. The Board has determined that if any licensing authority has taken disciplinary action against a person for any reason, then those actions are highly relevant to an individual's current ability to practice nursing in the state of Texas. If any licensing authority has refused to issue a license, revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew a license, certificate, or multi state privilege held by you or previously fined, censured, reprimanded or otherwise disciplined you, SUBMIT the names and address of the licensing authority who has taken action and a letter explaining the background of the action. Additionally, SUBMIT certified copies of

1. formal charges or allegations supporting the licensure action;
2. final disposition of the licensing authority regarding those formal charges or allegations; and
3. evidence that the conditions of the licensing authority's order or requirements have been met.

QUESTION #5. The practice of professional nursing requires current sobriety and fitness. If you have been addicted to or treated for the use of alcohol or any other drug within the last five years, SUBMIT:

1. verification of treatment for substance abuse sent directly to the Board from the treatment center;
2. verification of compliance with aftercare recommendations;
3. evidence of continuing sobriety/abstinence, for example, current support group attendance; and
4. a personal letter of explanation with sobriety date and plan for relapse prevention.

*Pursuant to Occupations Code §301.207, information regarding a person's diagnosis or treatment for a physical condition, mental condition, or chemical dependency is confidential to the same extent that information collected as part of an investigation is confidential under the Occupations Code §301.466

QUESTION #6. The practice of professional nursing requires current fitness. The Board has identified certain disorders which, if occurring within the last 5 years, indicate a lack of fitness. The disorders are: schizophrenia and other psychotic disorders, bipolar disorder, paranoid personality disorder, anti-social personality disorder, or borderline personality disorder. If you have been diagnosed, treated or hospitalized for any of the above illnesses within the last 5 years, SUBMIT:

1. A report, on letterhead, from your physician, psychiatrist, psychologist or counselor, sent directly to this office, that includes: your diagnosis; treatments rendered; including current medications; prognosis; cognitive, affective, and emotional stability and continuing after-care recommendations, including reasonable accommodations needed to safely practice professional nursing, if any; and,
2. Verification of compliance with aftercare recommendations.

*Pursuant to Occupations Code §301.207, information regarding a person's diagnosis or treatment for a physical condition, mental condition, or chemical dependency is confidential to the same extent that information collected as part of an investigation is confidential under the Occupations Code §301.466.

Frequently asked questions regarding Petitions for Declaratory Order

1. How long will it take to receive an eligibility decision from the Board?

- *The initial review process can take a minimum of 45 days in the Operations Department and a minimum of four (4) months or longer if transferred to the Enforcement Department. Unfortunately, Board staff can not provide a time frame over the telephone to an applicant regardless of the type of case. The Board strongly advises that the applicant petition the Board before enrolling into a nursing program if the applicant has potential eligibility issues.*

2. I am in my last semester of nursing school and I am not allowed to participate in clinicals until I receive an eligibility determination from the Board. How can I speed up the petition process?

- *Unfortunately the Board can not "speed up" the eligibility process. Applications are reviewed on a case-by-case basis and are processed in the order that they are received.*

3. My criminal history came back with a charge I forgot about. I did not indicate this on my Application for Initial Licensure. Will I automatically be denied because I did not disclose the offense to the Board?

- *You will not be approved to take the NCLEX exam without providing the Board with information concerning the offense. This may result in the Board delaying or denying your eligibility to take the NCLEX exam.*

4. Can a person be licensed if they have a misdemeanor or felony crime on their record?

- *Each application is evaluated on a case-by-case basis. Eligibility to take the NCLEX cannot be determined without an applicant providing a Petition for Declaratory Order to the Board with all required documentation. The Texas Board of Nursing considers the nature, severity, the age of the individual when the incident occurred, and other factors when reviewing a case for eligibility. The Board will not make a determination for approval or denial of licensure without evaluating the entire application and supporting documentation.*

5. I have a pending criminal charge against me. Do I have to report this to the Board?

- *YES. All pending criminal charges and/or disciplinary action must be reported to the Board.*

6. Can I work as a Graduate Nurse/Graduate Vocational Nurse (GN/GVN) while the Board is determining my eligibility?

- *NO. The Board will not authorize applicants to practice as a GN/GVN or to take the NCLEX exam until an eligibility decision is rendered. Some applicants may not be eligible to practice as a GN/GVN upon receiving the eligibility determination.*

7. What can I do if I am denied?

- *Petitioners who receive a proposal to deny eligibility may request a hearing before an Administrative Law Judge at the State Office of Administrative Hearings by filing a written request with the Board. The request must be made within 60 days of the denial date and must be addressed to the Office of General Counsel.*
- *Petitioners who are denied can re-petition the Board at a later date. To determine when you will be eligible to re-petition the Board, speak to the Enforcement or Legal department for the length of time you must wait before re-petitioning.*

**Petition for a Declaratory Order
Check List**

- ☐ Have you attached the \$39.00 fee?
- ☐ Have you filled in **all** applicable blanks and written **all dates** with month/day/year?
- ☐ Have you listed all offenses and dates of offenses for questions 2 & 3 in your letter of explanation?
- ☐ Have you attached all the court documentation for each offense?
- ☐ Have you attached your personal letter explaining the occurrences of each offense, addiction, or mental illness? Did you sign and date your letter?
- ☐ If you are petitioning due to a mental illness, have you attached physician, psychiatrist and/or psychologist's documentation?
- ☐ Have you attached verification of compliance with after care recommendations (only if petitioning due to mental illness or addiction)?
- ☐ Have you attached evidence of continuing sobriety/abstinence (only if petitioning due to alcohol/substance abuse addiction)?
- ☐ Have you attached verification of treatment for substance abuse (only if petitioning due to addiction, all documentation must be sent directly from physician and/or treatment center)?

Send to:

**Texas Board of Nursing
333 Guadalupe, Tower 3, Suite 460
Austin, TX 78701**